

REMARKS

Claims 1-14 are all the claims pending in the application.

(1) Applicant respectfully requests Examiner Blatt to reconsider and withdraw the rejection of claim 3 under 35 U.S.C. 112, second paragraph, in view of the above corrective amendment to claim 3 (which was correctly interpreted by the Examiner).

(2) Applicant respectfully **traverses** the rejection of claims 1-14 under 35 U.S.C. 103(a) as being unpatentable (obvious) over Wenning (EP '447).

The primary basis for this traversal is that Wenning does not disclose or even suggest **all of the limitations** of claim 1 and its dependent claims 2-14 as is required for a rejection under 35 U.S.C. 103(a). Furthermore, even if for some reason a person were to modify Wenning as proposed by the Examiner, there would not be produced the subject matter of parent claim 1, or subject matter which would have rendered claim 1 obvious.

(2.1) The Examiner considers that all the features of claim 1 are disclosed by Wenning except that the “outer diameter of the body and the diameter of the duct increase progressively from the first end to the second end”.

Examiner Blatt fails to note some other claimed features which are not disclosed in Wenning. They are as follows:

Claim 1 recites “a guide insertion device suitable for the insertion of a guide into a check valve”.

A guide is a very thin wire as clearly disclosed in the specification and as shown in Figures 1 and 3 of Wenning under reference numeral 3. Contrary to applicant’s claimed device, the device disclosed in Wenning is a “catheter tip straightener” which is a device adapted to hold a catheter. A catheter, as shown in Figures 1 and 3 of Wenning, is a pipe of a relatively large

diameter which is adapted to be engaged on a guide wire (3), as shown in Figure 1.

Consequently, the functions and the structures of applicant's claimed device and of the device of Wenning are completely different. In particular, the dimensions of the duct and the dimensions of the slot are clearly greater in Wenning than in the claimed invention.

(2.2) The claimed device is suitable for insertion of a guide into a check valve. This means that the cannula (14) of the claimed device is adapted to go across the check valve in order to create a passage for the guide. A check valve is shown in Figure 2 of Wenning. The check valve is formed by the membrane (10).

Contrary to the claimed device, (1) of Wenning is adapted to be stopped away from the membrane (10) by a shoulder (9) to avoid the membrane (10) being forced open (see column 4, lines 12 to 19 of Wenning).

Consequently, once again, the function and structure of the Wenning device are completely different from those of the claimed device.

(3) Claim 1 requires that the diameter of the duct along the length of the body "increases progressively" from the first end to the second end. This means that the diameter of the duct increases all along the length of the body.

On the contrary, the diameter of the duct of Wenning increases only at its proximal end as can be seen at number 12 in Fig. 2. The Examiner considers that Wenning teaches that "a tapered shape aids in funneling a flexible member through a narrow aperture" and that, consequently, it would have been obvious to one of ordinary skill in the art to have the diameter of the duct increase progressively from one end to other end.

Applicant respectfully disagrees. The teaching of Wenning is completely different since the funnel shape (12) is not provided in the Wenning device for aiding in funneling a flexible

member through a narrow aperture. On the contrary, and as disclosed in the passage in column 3, lines 45 to 48, the funnel shape (12) is provided for the device to be pushed with its proximal end onto a reinforcing sleeve (6) in such a way that it is more or less fixed to this sleeve.

As a consequence, a person skilled in the art would have understood from this passage that the funnel shape is made for the device to be fixed to a reinforcing sleeve, which is different from aiding in funneling a flexible member through a narrow aperture.

In addition, in Wenning, the flexible member is made of a catheter (4). Wenning does not teach or even suggest that the funnel shape at the proximal end of the device is made to guide the catheter through a narrow aperture. Indeed, the catheter is not introduced into the device through the proximal end but, rather, by using the longitudinal slit (11) as explained in column 3, line 55 to column 4, line 5 and as shown in Figure 4.

As a consequence, a person skilled in the art would not have been motivated to increase the diameter of the duct all along the length. Instead, he would/could have been motivated only to modify the cross-section of the longitudinal slot in such a way that in cross-section it is widened towards the outside, which is different from the claimed structure.

(4) The Examiner considers that it would have been obvious for a person skilled in the art to have the diameter of the body “increase progressively” from the first end. Applicant cannot find any suggestion of this feature in Wenning since, on the contrary, Wenning has a stop in the shape of a shoulder (9) at the first end of the device and a connection means (8) which connects the device to the introduction sheath (2) (column 3, lines 15 to 18).

Applicant has explained why Wenning does not teach or even suggest **all of the limitations** of claim 1 and its dependent claims 2-14. Thus, the subject matter of claim 1 and these dependent claims would not have and could not have been obvious from Wenning’s

disclosure, whereby applicant respectfully requests the Examiner to reconsider and withdraw the rejection under 35 U.S.C. 103(a). Furthermore, even if one were to modify Wenning per the Examiner's various proposals, there would not be produced the subject matter of any of claims 1-14 or subject matter which would have rendered these claims obvious.

In conclusion, then, and for the reasons advanced above, Applicant respectfully requests the Examiner to reconsider and withdraw the rejections under 35 U.S.C. 112 second paragraph, and 103(a), and find the application to be in condition for allowance with all claims 1-14; however, if for any reason the Examiner feels that the application is not now in condition for allowance, he is respectfully requested to **call the undersigned attorney** to discuss any unresolved issues and to expedite the disposition of the application.

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of three months. The statutory fee of \$1110.00 is being charged to the Deposit Account No. 19-4880 via EFS Payment Screen. The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: October 29, 2008

/john h mion/
John H. Mion
Registration No. 18,879